

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:	Confirmation No.: 7053
Christopher J. BURNS et al.	Art Unit: 1624
Application No.: 10/538,499	Examiner: Douglas M. Willis
Filed: December 11, 2003 Int'l	
For: PYRAZINE-BASED TUBULIN INHIBITORS	

**SUPPLEMENTAL RESPONSE UNDER 37 C.F.R. § 1.116**

MS AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

This is in further response to an Office action herein, mailed 22 October 2010, time for response to which was set to expire 22 January 2011. The rejection of claims 1, 3-8 and 10 was maintained and the rejection was made final. Claims 2 and 9 were objected to as dependent on a non-allowed claim but were considered otherwise allowable. An Advisory Action was mailed on 5 January 2011 indicating that the proposed amendment would overcome the rejection for anticipation, but that a rejection for obviousness would be maintained unless it could be shown that the invention in the cited PCT publication (WO02/060492) was derived from the inventors herein. Applicants assume that it would be equally correct to establish that the claimed invention herein is the invention solely of Burns and Wilks. A Petition to Change Inventorship under

37 C.F.R. § 1.48(b) is enclosed. Also enclosed is a Declaration under 37 C.F.R. § 1.132 in support of this Change of Inventorship, although this Declaration is, strictly speaking, not necessary.

The undersigned is uncertain what is being suggested in the Advisory Action when it is stated that claim 1 is objected to because, in line 1, C<sub>1-4</sub> alkyl should be replaced with C<sub>2-4</sub> alkyl with respect to W to avoid issues under 35 U.S.C. § 112, paragraph 2. This was precisely the amendment provided previously which is included and reproduced here. Entry of this amendment is respectfully requested.

In view of the congruence of inventorship in the present application and the cited document published less than one year prior to the date to which applicants are entitled, it is believed that the rejections may be withdrawn, and claims 1-10 passed to issue. Rejoinder of claims 11-13 and 15-17 is also requested.

In the unlikely event that the transmittal letter is separated from this document and the Patent Office determines that an extension and/or other relief is required, applicants petition for any required relief including extensions of time and authorize the Commissioner to charge the cost of such petitions and/or other fees due in connection with the filing of this document to **Deposit Account No. 03-1952** referencing docket No. 415852000800.

Dated: January 24, 2011

Respectfully submitted,

Electronic signature: \_\_\_\_\_ / Kate H. Murashige /  
Kate H. Murashige  
Registration No.: 29,959  
MORRISON & FOERSTER LLP  
12531 High Bluff Drive, Suite 100  
San Diego, California 92130-2040  
Telephone: (858) 720-5112  
Facsimile: (858) 720-5125